

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICHARD ARTHUR KIRKHAM,

Plaintiff,

CASE NO. 2:25-CV-208-DGE-DWC

ORDER DIRECTING SERVICE OF  
CIVIL RIGHTS COMPLAINT

V.

## WHATCOM COUNTY, et al.,

## Defendants.

14 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff Richard  
15 Arthur Kirkham is proceeding with this action *pro se*. The Court, having reviewed Plaintiff's  
16 Second Amended Complaint (Dkt. 7), grants his Motion for Leave to File Typed Complaint Not  
17 on the Court Provided Form (Dkt. 8) and hereby orders as follows:

(1) Service by Clerk

19 The Clerk is directed to send the following to Defendants Whatcom County, Donnell  
20 Tanksley, Wendy Jones, Caleb Erickson, DentALL, PLLC., Jessica Dubek, and BreAnna Brock  
21 by first class mail: a copy of Plaintiff's Second Amended Complaint (Dkt. 7) and all  
22 attachments thereto (Dkts. 7-1, 7-2, 7-3), a copy of this Order, two copies of the notice of

1 lawsuit and request for waiver of service of summons, a waiver of service of summons, and a  
2 return envelope, postage prepaid, addressed to the Clerk's Office.

3 (2) Response Required

4 Defendants shall have **thirty (30) days** within which to return the enclosed waiver of  
5 service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**  
6 **days** after the date designated on the notice of lawsuit to file and serve an answer to the  
7 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

8 A defendant who fails to timely return the signed waiver will be personally served with a  
9 summons and complaint, and may be required to pay the full costs of such service, pursuant to  
10 Rule 4(d)(2) of the Federal Rules of Civil Procedure.

11 (3) Filing and Service by Parties, Generally

12 All attorneys admitted to practice before this Court are required to file documents  
13 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,  
14 [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov), for a detailed description of the requirements for filing via CM/ECF.  
15 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original  
16 with the Clerk. All filings, whether filed electronically or in traditional paper format, must  
17 indicate in the upper right hand corner the name of the magistrate judge to whom the document  
18 is directed.

19 For any party filing electronically, when the total of all pages of a filing exceeds fifty  
20 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as  
21 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be  
22 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

23

1 Any document filed with the Court must be accompanied by proof that it has been served  
2 upon all parties that have entered a notice of appearance in the underlying matter.

3 (4) Motions, Generally

4 Any request for court action shall be set forth in a motion, properly filed and served.  
5 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
6 part of the motion itself and not in a separate document. The motion shall include in its caption  
7 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
8 consideration upon the Court's motion calendar.

9 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for  
10 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),  
11 motions for default, requests for the clerk to enter default judgment, and motions for the court to  
12 enter default judgment where the opposing party has not appeared shall be noted for  
13 consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions shall  
14 be noted for consideration no earlier than 21 days after filing and service of the motion. *See*  
15 LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier than 28 days  
16 after filing and service of the motion. *Id.*

17 For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-  
18 dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday  
19 immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro  
se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's  
21 office by 4:30 p.m. on the Monday preceding the date of consideration.

22  
23

1       The party making the motion may file and serve, not later than 11:59 p.m. (if filing  
2 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date  
3 designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

4                   (5)    Motions to Dismiss and Motions for Summary Judgment

5       Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil  
6 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil  
7 Procedure should acquaint themselves with those rules. As noted above, these motions shall be  
8 noted for consideration no earlier than 28 days after filing and service of the motion.

9       Defendants filing motions to dismiss or motions for summary judgement are advised that  
10 they MUST serve *Rand* and *Wyatt* notices concurrently with motions to dismiss and motions for  
11 summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of  
12 what is required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941  
13 (9th Cir. 2012). The Ninth Circuit has set forth model language for such notices:

14                   A motion for summary judgment under Rule 56 of the Federal Rules of Civil  
15 Procedure will, if granted, end your case.

16       Rule 56 tells you what you must do in order to oppose a motion for summary  
17 judgment. Generally, summary judgment must be granted when there is no genuine  
18 issue of material fact – that is, if there is no real dispute about any fact that would  
19 affect the result of your case, the party who asked for summary judgment is entitled  
20 to judgment as a matter of law, which will end your case. When a party you are  
21 suing makes a motion for summary judgment that is properly supported by  
22 declarations (or other sworn testimony), you cannot simply rely on what your  
complaint says. Instead, **you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.**

1 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *see Wyatt v. Terhune*, 315  
2 F.3d 1108, 1120 n.14 (9th Cir. 2003) (extending the fair notice requirement to motions to dismiss  
3 for failure to exhaust administrative remedies).

4 Defendants who fail to file and serve the required *Rand* and *Wyatt* notices on plaintiff  
5 may have their motion stricken from the Court's calendar with leave to re-file.

6 (6) Direct Communications with District Judge or Magistrate Judge

7 No direct communication is to take place with the District Judge or Magistrate Judge with  
8 regard to this case. All relevant information and papers are to be directed to the Clerk.

9 (7) The Clerk is directed to send copies of this Order and the Court's *pro se*  
10 instruction sheet to plaintiff. The Clerk is further directed send a copy of this Order and a  
11 courtesy copy of Plaintiff's Second Amended Complaint to the Whatcom County Prosecutor's  
12 Office by first-class mail.

13 Dated this 2nd day of June, 2025.

14  
15   
16 David W. Christel  
United States Magistrate Judge  
17  
18  
19  
20  
21  
22  
23